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EXAMINER

POLLACK, MELVIN H

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 25 January 2010 have been fully considered but they are not persuasive. An analysis of the arguments is provided below.
2. The examiner believes that he has given the applicant fair opportunity to reply, particularly as this is the second advisory action assigned to this case. While it is true that the examiner has mapped out the claims in the final as a courtesy to better explain his position, such mapping is not necessary in every case, and the examiner believes that Dynarski and the non-final action are sufficiently clear, particularly given the scope of the claims as currently devised. As a further courtesy, examiner will add more detailed arguments than required for an advisory action, although such arguments may still be expounded upon in response to an RCE or Appeal Brief.
3. As for the argument as to how Applicant defines Dynarski, such an argument is moot in that the applicant has disclaimed such an argument. To better clarify the record, examiner was responding to the assertion that the home agent #22 "does not assign an address to any of reference numbers 10, 14, 16 or 24 (P. 9 of original arguments)," followed by several assertions that the home agent merely receives the IP packet (P. 10). As applicant's argument has shifted to one of timing, the particulars of this argument are not at issue.
4. If the applicant continues to have problems with my handling of the case, they may feel free to lodge a complaint with my supervisor using the contact information listed below.

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5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the particular interpretation of assigning, by said headend, an address (Pp. 12-13)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). While the applicant does not explain how the term should be interpreted, it is argued that the examiner's interpretation is far too narrow.

6. In determining the scope of the claims, one must use the dictionary definitions, the plain meaning, and the meaning as understood by one of ordinary skill in the art. All of these point to the idea that the act of association or assignment merely describes developing a relationship of any type between two objects, in this case an address of some form with a device of some form. Since the claims as currently drawn do not specify any of the types, nor describe any of the structure and functionality of performing or using the assignment, the examiner may presume that the language is sufficiently broad to cover any type of relationship between any type of address and any type of device.

7. Looking to the specification of the instant application, there seems to be little in the way of definition that would narrow such an interpretation (specification, Paras. 49, 63 – 66, and 72-73). Even if we were to narrow the language to the specific cited example of static/dynamic IP addressing, which would require reading limitations into the claim, such a process is sufficiently broad as to be blocked by the steps of locating and identifying devices, mapping IP addresses, and performing steps to allow communication.

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8. Applicant then claims that Dynarski does not expressly disclose “communicating, by said headend, the assigned address in response to said headend receiving an identifier,” but rather that Dynarski teaches communicating the address first (Pp. 13 – 15).

9. In interpreting a multi-step procedure such as that claimed, the broadest reasonable interpretation may provide disjunctions in timing, particularly when determining obviousness. In other words, the transfer of the assigned address does not have to be the first transfer of any assigned address, nor does the assignment have to be performed before every transfer. In other words, the claims are of sufficient breadth in structure and functionality as to include populating memory tables and in device location and authentication.

10. This is particularly true when reviewing Dynarski in light of West. Under both teachings, it becomes clear that the steps, even under the narrow interpretation of timing, are obvious to one of ordinary skill in the art.

11. In response to applicant's argument that West does not disclose all of steps b and c (P. 16), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

12. Even if it were mutually exclusive to perform both address assignment and address translation, which is not taught either by West or by the knowledge of one of ordinary skill in the art, the act of assigning addresses to a guest device is performed in response to the receipt of

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identifying information. When coupled with Dynarski as a secondary reference, one of ordinary skill in the art may see the assignment.

13. Therefore, the rejection is maintained for the reasons above.

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2445